

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1894.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	March 19, 2002
DATE OF REPORT:	April 18, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	July 19, 2002

**COMPLAINT ISSUES:**

Whether the Gary Community Schools violated:

511 IAC 7-25-2 by failing to evaluate the Student (student) for whom a pattern of behavior or performance concerns within the school setting demonstrated the need for special education and related services (special education).

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically failing to provide homebound tutoring, as identified in the January 25, 2002 IEP.

**FINDINGS OF FACT:**

1. The student is 12 years old, in grade six, and is eligible for special education and related services under the category of emotionally disabled.
2. The school provided information about incidents at the elementary school, beginning April 23, 1999, and continuing through June 1, 2001, in which the student's pattern of aggressive and disruptive behavior toward students or when given difficult class-work tasks warranted that the school staff provide repeated conferencing to discuss the behavior with the parent after each documented incident. The school provided the student with counseling by the school counselor or school social worker after each incident. The student was enrolled in grades three through five during that time. The student's behaviors at school over almost a two year period of time were so disruptive to the classroom that it resulted in the school removing the student and the student losing days of instruction. The social worker reported in an attachment to the IEP of January 25, 2002, that "[a]ccording to the school records and the report of his mother, [the student] began having difficulty with peers and demonstrating oppositional behavior in the 4<sup>th</sup> grade at [the elementary school]. These behaviors progressed in the 5<sup>th</sup> grade, resulting in hospitalization."
3. In the memorandum from the principal, dated April 4, 2001, the Principal cited her discussion with the parent "about seeking additional help for [the student]" and that the fifth grade teacher had completed a "Personality Assessment Referral" for the parent to document behaviors that school personnel had observed. According to the parent, the elementary school social worker referred the parent to take the student to a hospital to seek psychiatric intervention following the school incident, April 4, 2001. The student was subsequently hospitalized and returned to school on April 10, 2001, but the school offered no assistance, including referral for special education services either before or after that hospitalization, although the parent asserts that she had repeatedly asked the school

what they could do to assist her son during the 2000-2001 school year at each conference she had with the school following the student's disruptive and aggressive behaviors. The student was again hospitalized in October 2001 but not referred for testing for special education services until he was released from the hospital in January, 2002. A memorandum from the assistant director indicates that the parent made the referral for special education services.

4. The student was determined eligible for special education on January, 25, 2002. The IEP developed on this date provided for homebound services two hours per week beginning on January 30, 2002, with a 30-day review of services scheduled for March 11, 2002. The school failed to initiate homebound services until March 7, 2002, two days before the scheduled service evaluation conference. The parent state she called the special education office several times between January 30 and March 7, 2002, and inquired why those services had not been initiated. She reports that her phone calls were not returned by the staff.
5. The superintendent acknowledges that the school failed to comply with Article 7, as the parent alleges, and proposed the following corrective actions in a memorandum to the Division, dated March 28, 2002:
  - a. A memo be sent out to all schools requiring that every student's IEP be sent to the Pupil Accounting Office within 48 hours after the conference.
  - b. A tracking system be used to monitor Homebound implementation (included).
  - c. An in-service on Child Identification be presented to the staff of the student's former elementary school.
  - d. The student receive an increase of services from 2 hours to 4 hours (per week) beginning the week of April 9, 2002.

## **CONCLUSIONS:**

1. Findings of Fact # 2 and #3 reflect that the school had sufficient information regarding the student's repeated pattern of behavior problems that resulted in the student losing instructional time beginning at the end of the 1999-2000 school year, continuing through the 2000-2001 school year, and on into the 2001-2002 school year. However, the school failed to evaluate the Student, for whom a pattern of behavior or performance concerns within the school setting demonstrated the need for special education and related services and for whom the parent had repeated requested assistance. Therefore, a violation of 511 IAC 7-25-2 is found.
2. Findings of Fact #4 and #5 indicate that the student's IEP, developed on January 25, 2002, was not implemented, and the school acknowledges that it failed to implement the agreed-upon IEP as required. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the initiation of homebound services

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

## **CORRECTIVE ACTION:**

The Gary Community Schools shall:

1. Reconvene the CCC to determine the amount of compensatory services to be provided to the student as a result of the school's failure to identify this student and the delay in implementing the IEP after permission for services was granted by the parent. The CCC shall consider any adverse effects of not having provided identified services, including any lack of academic progress and any negative impact on the Student's grades. The CCC's consideration and determination regarding compensatory services shall be fully documented in the CCC Summary/Report. A copy of the CCC Summary/Report shall be submitted to the Division no later than May 17, 2002.
2. Complete the following corrective action as identified in the Superintendent's memo of March 28, 2002:
  - a. Send a memo to all building administrators that the IEP for every student shall be sent to the Pupil Accounting Office within 48 hours of the case conference committee meeting. A copy of the memorandum and a list of all individuals to whom it was sent shall be submitted to the Division no later than May 17, 2002.
  - b. Conduct an inservice for appropriate staff within the school corporation regarding the identification of students for referral for evaluation when the student's pattern of behavior or performance concerns within the school setting demonstrate the need for special education and related services. A copy of the inservice agenda, any handouts, and a list of individuals (by name and title) in attendance shall be submitted to the Division no later than May 17, 2002.